AO106 (Rev. 12/03) Affidavit for Search Warrant

ORDERED SEALED BY COURT

UNITED STATES DISTRICT COURT

UNSEALED 4/18/08

FILED

SOUTHERN DISTRICT OF CALIFORNIA

08 MAR -5 PM 5:00

CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

BY DEPUTY

In the Matter of the Search of
(Name, address or brief description of person, property or premises to be searched)

12956 Cristallo Place
San Diego, CA

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Case Number: '08 MJ 0690

I, Special Agent Christopher J. Sedmak being duly sworn depose and say:

I am a(n) Special Agent for the Federal Bureau of Investigation (Official Title) and have reason to believe

that ☐ on the person of or ☑ on the property or premises known as (name, description and/or location)

See Attachment A.

in the SOUTHERN District of CALIFORNIA

there is now concealed a certain person or property, namely (describe the person or property to be seized).

See Attachment B.

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

Evidence of a crime and property used in committing a crime; contraband, fruits of a crime, and things criminally possessed; and propery designed or intended for use or which is or has been used as a means of committing a criminal offense.

concerning a violation of Title 21 / 18 United States code, Section(s) 841(a)(1), 843(b) and 846 / 1956

The facts to support a finding of probable cause are as follows:

See the attached Affidavit of Special Agent Christopher J. Sedmak

Continued on the attached sheet and made a part hereof: ☑ Yes ☐ No

[signature]
Signature of Affiant

Sworn to before me and subscribed in my presence,

March 5, 2008 (Date) at San Diego, California (City) (State)

Hon. Cathy Ann Bencivengo (Name of Judge) U.S. Magistrate Judge (Title of Judge)

[signature]
Signature of Judge

ATTACHMENT A

DESCRIPTION OF PROPERTY TO BE SEARCHED

The premises located at 12956 Cristallo Place, San Diego, California is a two story detached house located on Cristallo Place in San Diego, California. The residence has a tan colored exterior with an attached grey colored garage. The roof is comprised of red tile. The numerals "12956" are visible on the curb in front of the location and on the mailbox.

The search shall include all rooms, attics, crawl spaces, safes, briefcases, storage areas, containers, garages, sheds, carports, storage facilities and containers such as safes, vaults, file cabinets, drawers, luggage, briefcases, valises, boxes, jewelry boxes, cans, bags, purses, trash cans and vehicles owned by HNAINO including 2003 Saab bearing California license plate number 5BKP958.

ATTACHMENT B

ITEMS TO BE SEIZED

1. Documents containing data reflecting or memorializing the ordering, possession, purchase, storage, distribution, transportation and sale of controlled substances, including buyer lists, seller lists, pay-owe sheets, records of sales, log books, drug ledgers, personal telephone/address books containing the names of purchasers and suppliers of controlled substances, electronic organizers, Rolodexes, telephone bills, telephone answering pads, bank and financial records, and storage records, such as storage locker receipts and safety deposit box rental records and key.

2. Money, assets, and evidence of assets derived from or used in the purchase of controlled substances and records thereof, including but not limited to United States currency, negotiable instruments and financial instruments including stocks and bonds, and deeds to real property, books, receipts, records, bank statements and records, business records, money drafts, money order and cashiers checks receipts, passbooks, bank checks, safes and records of safety deposit boxes and storage lockers.

3. Documents and articles of personal property reflecting the identity of persons occupying, possessing, residing in, owning, frequenting or controlling the premises to be searched or property therein, including keys, rental agreements and records, property acquisition records, utility bills and receipts, photographs, answering machine tape recordings, telephone, vehicle and/or vessel records, canceled mail envelopes, correspondence, financial documents such as tax returns, bank records, safety deposit box records, canceled checks, and other records of income and expenditure, credit card records, travel documents, personal identification documents and documents relating to obtaining false identification including birth certificates, drivers license, immigration cards and other forms of identification which the same would use other names and identities other than his or her own.

4. All incoming telephone calls received at the residence during the execution of the search warrant and all calls received on cellular telephones found during the execution of the warrant.

5. Devices used to conduct counter-surveillance against law enforcement, such as radio scanners, police radios, surveillance cameras and monitors and recording devices and cameras.

6. Photographs and video and audio recordings which document an association with other coconspirators and/or which display narcotics, firearms, or money and proceeds from narcotics transactions.

7. Packages and contents that were delivered to the residence, or were about to be sent by the occupants.

8. Police radio scanners, pagers, cellular telephones, facsimile machines, telephone answering machines, Caller ID system, and prepaid telephone cards.

9. Banking and financial institution records, bank statements, credit card statements, canceled checks, money orders, deposit slips, orders for or receipt of money transfer by wire, checking and saving books, financial institution statements, safe deposit boxes, loan statements, tax returns, business and personal ledgers, and accounting records.

10. Money, assets, and evidence of assets derived from or used in the purchase of controlled substances and records thereof, including but not limited to United States Currency, negotiable instruments and financial instruments including stocks and bonds, and deeds to real property, books, receipts, records, bank statements and records, business records, money drafts, money order and cashiers checks receipts, passbooks, bank checks, safes and records of safety deposit boxes and storage lockers.

11. Records relating to the lease of storage lockers, telephone/address directories and other papers containing telephone numbers and addresses.

12. Records related to the purchase of real estate, vehicles, precious metals, jewelry and other tangible assets.

13. Digital storage devices including: floppy disk, CD ROMS, DVD ROMS, magnetic tapes, magnet optical cartridges, personal digital assistance, pagers, money chips, thumb drives, jump drives, flash drives, portable hard drives and computers containing hard drives. All electronic devices, such as computers, which include the central processing units, internal and external devices, internal and external storage equipment or media, terminals or video display units, together with peripheral equipment, such as keyboards, printers, modems, and programmable telephone dialing devices, and operating system software, program software, applications software, manuals for the software and hardware, electronic organizers, or personal digital assistants and computer discs and CD's, cellular telephones and SIM cards. All seized computers shall be returned to the defendants or the defendant's agent within 10 calendar days. If agents need more time than 10 days to complete the mirror imaging, the Government will seek from the Court an extension of time within which to return the applicable devices and/or equipment.

14. With respect to any and all electronically stored information in cellular phones and PDAs, agents may access, record, and seize the following:

a. telephone numbers of incoming/outgoing calls stored in the call registry;

b. Digital, cellular, and/or telephone numbers and/or direct connect numbers, names and identities stored in the directories;

c. Any incoming/outgoing text messages relating to controlled substances offenses under 21 U.S.C. §§ 841(a)(1), 843(b), 846, and money laundering offenses under 18 U.S.C. § 1956;

d. telephone subscriber information;

e. the telephone numbers stored in the cellular telephone and/or PDA; and

f. any other electronic information in the stored memory and/or accessed by the active electronic features of the digital or cellular phone including but not limited to photographs, videos, e-mail, and voice mail relating to controlled substances offenses under 21 U.S.C. §§ 841(a)(1), 843(b), 846, and money laundering offenses under 18 U.S.C. § 1956.

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

UNITED STATES OF AMERICA)
) **SS**
SOUTHERN DISTRICT OF CALIFORNIA)

I, Christopher J. Sedmak, being duly sworn, hereby depose and say:

1. I make this affidavit in support of an application for a search warrant in furtherance of an investigation conducted by special agents of the Federal Bureau of Investigation ("FBI") and the United States Drug Enforcement Administration ("DEA") for the premises located at 12956 Cristallo Place, San Diego, California (hereafter "the target location") described further in Attachment A.

2. As discussed further, AHMAD H. HNAINO, the Pharmacist-in-Charge at WHITE CROSS DRUG STORE has illegally distributed pharmaceuticals, including oxycodone[1] and hydrocodone bitartrate,[2] to individuals without a medical prescription since at least September 2007. On March 5, 2007, a complaint was filed in the United States District Court for the Southern District of California, Case No. 08MJ0667, charging HNAINO with distribution of oxycodone and hydrocodone bitartrate in violation of 21 U.S.C. § 841(a)(1).

3. The purpose of the search warrant is to seize (1) property that constitutes evidence of the commission of controlled substances offenses under 21 U.S.C. §§ 841(a)(1), 843(b), and 846, and money laundering offenses under 18 U.S.C. § 1956, (2) contraband, fruits of crime or things otherwise criminally possessed, and (3) property designed or intended for use or which is or has been used as a means of committing a criminal offense.

4. The information contained in this affidavit is based on my personal experience and training, consultation with other special agents of FBI, DEA, the Criminal Investigation Division of the Internal Revenue Service ("IRS"), officers of the San Diego Police Department ("SDPD") and other law

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[1] Oxycodone is a potent and potentially addictive opioid analgesic medication synthesized from thebaine. It is a Schedule II controlled substance both as a single agent and in combination with other products such as acetaminophen, ibuprofen, or asprin.

[2] Hydrocodone is a narcotic which relieves pain by binding to opioid receptors in the brain and spinal cord. Pure hydrocodone, and forms containing more than 15 mg per dosage unit, are Schedule II controlled substances. Tablets consisting of less than 15 mg hydrocodone per dosage unit constitute hydrocodone bitartrate and are Schedule III controlled substances. For purposes of this affidavit, all references to "hydrocodone" refer to "hydrocodone bitartrate."

enforcement officers. The evidence and information contained herein was developed from a review of intercepted wire and electronic communications pursuant to prior district court authorization, interviews with sources of information, financial documents secured by grand jury subpoena, surveillance records, vehicle records from the California Department of Motor Vehicles ("DMV"), and public records.

EXPERIENCE AND TRAINING

5. I have been employed as a Special Agent with the FBI since September of 2002. I am currently assigned to the San Diego Field Division working as a member of the San Diego Organized Crime Squad. I have received 16 weeks of training at the FBI Academy in Quantico, Virginia. During the training, I learned how controlled substances are manufactured, consumed, packaged, marketed, and distributed. I have interviewed and operated informants, executed search warrants, arrested and interviewed subjects, conducted physical surveillance, utilized electronic and video surveillance, and testified in federal and state courts. I have also worked with and consulted numerous agents and law enforcement officers who have investigated drug trafficking.

6. In the course of my law enforcement experience, I have participated in investigations of crimes involving the importation and distribution of controlled substances and money laundering. I have arrested and participated in the arrests of numerous individuals for various controlled substance violations. I have participated in the execution of search warrants relating to illegal drug offenses. I have received training in the methods used by drug traffickers to import and distribute conceal controlled substances and launder drug proceeds to promote the drug trafficking activity and conceal or disguise the nature, source, and ownership of the drug proceeds. I have conducted and participated in numerous investigations involving surveillance of individuals associated with drug trafficking. I have conducted and participated in numerous interviews of individuals involved with drug trafficking.

7. Based upon my experience and training, consultation with other law enforcement officers experienced in controlled substances and financial investigations, and all the facts and opinions set forth in this affidavit, I know that:

a. Individuals involved in drug trafficking often maintain at their residence records and ledgers evidencing their trafficking activities in order to keep track of the ordering, purchasing, storage, distribution and transportation of controlled substances. At times, the drugs may be sold, but documentary records and ledgers often remain for long periods of time to memorialize past transactions, the status of accounts receivable and accounts payable, and the names and telephone numbers of suppliers, customers and coconspirators.

b. Individuals involved in drug dealing must often rely on others to obtain the controlled substances and to help them market the drugs and evidence of the identities of these criminal associates is often maintained at their residence and/or place of business.

c. Individuals involved in drug dealing utilize cellular telephones and personal digital assistants ("PDAs") to maintain contact with co-conspirators and to conduct their criminal activity. Drug traffickers use cellular phones and PDAs, in part, because of their belief in the inability of law enforcement personnel to simultaneously track the originating and destination phone numbers of calls placed to and from their cellular phones and PDAs. Cellular telephones and PDAs contain wire and electronic data concerning telephonic contact, text messages, and electronic mail messages with co-conspirators, as well as telephone books containing contact information for co-conspirators. Members of drug trafficking and distribution organizations also utilize cell phones and PDAs with photograph and video capabilities to take photographs and videos of other members of drug trafficking and distribution organizations, drugs, money, and assets purchased with drug proceeds.

d. Based on prior searches of premises used by individuals involved in drug trafficking, I believe I will find articles of personal property evidencing the identity of persons occupying, possessing, residing in, owning, frequenting or controlling the premises or property therein.

e. Individuals involved in drug trafficking will often conceal contraband and evidence of their drug dealing in vehicles outside their residence in order to prevent detection and seizure by officers conducting search warrants at the residence.

f. Individuals involved in drug trafficking earn sums of money and often maintain large amounts of United States Currency at their residence and often hide United States Currency in safes, false compartments, and other locations inside their home. Individuals involved in drug trafficking also try to conceal and disguise the nature, source, and ownership of drug proceeds in a variety of ways including: (1) placing assets in names other than their own to avoid detection while maintaining control; (2) laundering the money through what appears to be a legitimate business or businesses; and (3) using the money to buy assets which are hard to trace. Substantial sums of United States Currency and records of financial transactions are often found at the residence maintained by drug traffickers.

g. Individuals involved in drug trafficking often send and receive packages that contain contraband, money orders, and United States Currency. Packages that contain contraband, money orders, and United States Currency are often found at residences maintained by drug traffickers.

h. Individuals involved in drug trafficking often take photographs of themselves, their associates, their property, and their controlled substances. Drug traffickers often maintain these photographs at their residences or in their vehicles. Therefore, I am requesting permission to search the residences listed within this warrant and it's attachment(s) for and to seize photographs that law enforcement agents determine to be of evidentiary value.

i. Individuals engaging in drug transportation often use computers to communicate with co-conspirators by means of electronic mail ("e-mail") and for the storage of records. Moreover, I know that digital evidence can be stored on a variety of systems and storage devices including: hard disk drives, floppy disk, CD ROMS, DVD ROMS, magnetic tapes, magneto optical cartridges, personal digital assistance, pagers, money chips, thumb drives, flash drives, and portable hard drives. Therefore, I am requesting permission to seize computers, including printers, monitors, keyboards, scanners, and all forms of media storage that may be found at the residence.

8. It is also my opinion and belief that the above-described documents are permanently possessed by drug traffickers much the same way a legitimate business will maintain records and tools of its trade whether or not the business has a particular item in inventory on a given date. These documents are kept by drug traffickers whether or not the trafficker is in possession of any drugs at any given moment. I believe that the seizure of such documents will provide evidence of the events set forth in this affidavit and that such documents can be found in the residence despite any lapse of the time between the events described and the anticipated search pursuant to this warrant.

9. The investigation reveals that the drug distribution activities of HNAINO are ongoing (as recently as February 29, 2008) and have continued since at least September 2007. Consequently, I believe that there will be current as well as historical records of drug trafficking and possibly money laundering at the target location.

FACTS ESTABLISHING PROBABLE CAUSE

10. On February 25, 2008, a confidential source of information ("CI")[3/] advised special agents of the FBI that HNAINO has illegally distributed large quantities of oxycodone and hydrocodone bitartrate to a customer since September 2007.

11. CI does not have a license to distribute pharmaceuticals and has delivered the oxycodone and hydrocodone bitartrate to the customer on HNAINO's behalf, and obtained money from the customer for prior drug deliveries which was delivered by CI to HNAINO. CI advised agents that CI had made deliveries of hydrocodone obtained from HNAINO to the customer on approximately a monthly basis since on or about September of 2007. The customer's usual order consisted of six bottles of 10 mg hydrocodone (500 tablets per bottle), and six bottles of 5 mg hydrocodone (500 tablets per bottle). During that same period, on approximately four or five occasions, CI delivered oxycodone obtained from HNAINO to the customer along with the hydrocodone. The customer's usual order of oxycodone consisted of five bottles of 80 mg oxycodone (100 tablets per bottle).

12. On February 26, 2008, CI called HNAINO and told him that the customer wanted more oxycodone and hydrocodone bitartrate. CI further advised HNAINO that the customer had the $15,000 the customer owed HNAINO for previous drug purchases. HNAINO agreed to obtain the drugs and advised the CI that HNAINO would call later that day or the next day.

13. On February 28, 2008, CI called HNAINO regarding the status of the order. HNAINO advised the CI that he could provide the bottles of hydrocodone tablets to the CI that day but would not be able to get the oxycodone tablets to the CI until the next day. The CI and HNAINO agreed that the CI would take delivery of the drugs on February 29, 2008. The CI would then deliver the drugs

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[3/] CI-2 has been arrested but has no known criminal convictions. The information provided by CI-2 has been corroborated and has proven to be reliable.

to the customer and obtain the $15,000 owed by the customer to HNAINO, which the CI would then deliver to HNAINO.

14. On February 29, 2008, the CI met with the defendant in a parking lot located at 8730 Rio San Diego Drive, San Diego, California. HNAINO removed two plastic bags with the name "Good Neighbor Pharmacy" from his vehicle and handed them to the CI who placed the bags in the back of the CI's vehicle. FBI Special Agents recovered the bags that the CI placed into the CI's vehicle and determined that each bag contained six sealed bottles of Watson brand hydrocodone bitartrate tablets, with 500 tablets per bottle – a total of 6,000 tablets of hydrocodone bitartrate. Agents also found a white paper bag (also bearing the name "Good Neighbor Pharmacy") that contained four sealed bottles of Purdue Pharma brand 80 mg oxycodone tablets, with 100 tablets per bottle, and one bottle of Purdue Pharma brand 80 mg oxycodone tablets with the seal broken, which contained 77 tablets.

15. Approximately two hours after HNAINO distributed the drugs, HNAINO met with the CI near a coffee shop in La Jolla, California. HNAINO got into the CI's vehicle and the CI handed a white envelope that contained $15,000 in United States currency to HNAINO. HNAINO then got out of the CI's vehicle carrying the white envelope with the $15,000 which HNAINO placed in his green Saab.

Target Subject's Connection to Target Location

16. California DMV records identify the address of Ahmad H. HNAINO as the target location. On February 26, 2008, Agents obtained utility records from San Diego Gas and Electric (SDG&E) records pertaining to the target location. The utility records indicate that HNAINO maintains the SDG&E account for the target location.

Vehicles Associated with Target Subject and Target Location

17. HNAINO has been observed driving a green 2003 Saab, California license number 5BKP958, which is registered in his name.

SEARCH PROTOCOL FOR COMPUTERS

18. This section describes the procedures that will be employed during this search to minimize the intrusion represented by the search of any electronic data found at the target location.

19. Searching agents will be asked to use an incremental approach in searching for relevant electronic material. If the agents are able to examine relevant portions of computer drives to identify responsive material within a reasonable time period on-site, then the agents will attempt to create forensic images of computers or laptops seized. However, if the agents cannot perform the search within a reasonable period on-site, will they employ alternate procedures to complete the review off-site. In that case, the computer expert will create forensic images of electronic data sources as necessary to complete the search off-site.

20. A forensic image is an exact physical copy of a computer hard drive or other similar electronic storage media. A forensic image thus captures all of the data on the hard drive (or other media) without the data being viewed and without changing the data in any way. There are many reasons why it is not feasible to conduct a forensic analysis of data on-site. First, analysis of the data following the creation of the forensic image is a highly technical process that requires specific expertise, equipment and software. Second, there are literally thousands of different hardware items and software programs that can be commercially purchased, installed and custom-configured on a user's computer system. Third, it is only after a thorough examination and analysis, that a trained computer forensic examiner can determine whether he needs to obtain specialized hardware or software (not to mention specialized training on the specialized software) in order to view and analyze the data contained in electronic form.

21. The analysis of data on a computer may also be an extremely tedious and time consuming process. In addition, to requiring special technical skills, equipment and software, it may take days to properly search a single hard drive for specific data. With current technology, each search "hit" must be reviewed in its context by an agent to determine whether the data is within the scope of the warrant. In other words, merely finding a good "hit" does not end the review process.

22. Analyzing data on-site has become increasingly impossible as the volume of data stored on a typical computer system has increased. For example, a single gigabyte of storage space (i.e., 1,000 megabytes) is the equivalent of 500,000 double-spaced pages of text. Computer hard drives capable of storing 100s of gigabytes of data are becoming quite common in newer desktop computers.

23. In addition to the sheer volume, the data may be stored in a variety of formats or encrypted. The volume of data of course extends the time that it takes to analyze the image in a laboratory. Running keyword searches takes longer and results in more hits that must be individually examined for relevance. Moreover, certain file formats do not lend themselves to keyword searches (e.g., many common electronic mail, database and spreadsheet applications do not store data as searchable text).

24. Based on the foregoing, searching any computer or forensic image for the information subject to seizure pursuant to this warrant may require a range of data analysis techniques and may require off-site analysis.

25. Nevertheless, all forensic analysis of the imaged data will be directed exclusively to the identification and seizure of information within the scope of this warrant. In the course of proper examination, the forensic examiner may view information that is potentially privileged or not within the scope of the warrant. If so, this information will not be made available to the investigating agents unless it appears to the examiner that the information relates to the commission of offenses not covered by this warrant. In that event, the examiner will confer with the investigator and/or the prosecuting attorney so that they can determine whether to seek a further search warrant for the newly uncovered data.

26. All seized computers shall be returned to the defendants or the defendant's agent within 10 calendar days. If agents need more time than 10 days to complete the mirror imaging, the Government will seek from the Court an extension of time within which to return the applicable devices and/or equipment.

SEARCH PROTOCOL FOR CELLULAR TELEPHONES AND PDAS

27. With respect to any and all electronically stored information in cellular phones or PDAs at the target locations, agents respectfully request that this Court authorize the agents to access, record, and seize the following:

a. telephone numbers of incoming/outgoing calls stored in the call registry;

b. Digital, cellular, and/or telephone numbers and/or direct connect numbers, names and identities stored in the directories;

c. Any incoming/outgoing text messages regarding violations of 21 U.S.C. §§ 841(a)(1), 843(b), 846, or 18 U.S.C. § 1956;

d. telephone subscriber information;

e. the stored telephone numbers dialed from the cell phone and/or PDA; and

f. any other electronic information in the stored memory and/or accessed by theactive electronic features of the digital or cellular phone including but not limited to photographs, videos, e-mail, and voice mail regarding violations of 21 U.S.C. §§ 841(a)(1), 843(b), 846, or 18 U.S.C. § 1956.

28. If the agents cannot analyze the cellular telephone or PDA on site, they may send the cellular telephone or DPA to the Regional Crime Forensic Lab (RCFL) or the DEA Digital Lab to all analysts or forensic examiners to examine, analyze, and make a record of the contents of the information stored in the seized cellular telephone or PDA.

CONCLUSION AND SEALING REQUEST

29. Based on my training and experience, consultation with other special agents and law enforcement officers, and all of the facts and opinions set forth in this affidavit, there is probable cause to believe that federal crimes have been committed, including controlled substances violations under 21 U.S.C. §§ 841(a)(1), 843(b), and 846, and money laundering violations under 18 U.S.C. § 1956. There is also probable cause to believe that property constituting evidence of the offenses, contraband, fruits of crime or things otherwise criminally possessed, and property designed or intended for use or which is or has been used as a means of committing the criminal offenses will be found in the target location described further in Attachment A.

30. Because this is an ongoing investigation and premature disclosure of the investigation could endanger agents and officers, cause the target subjects and others to flee and cause destruction of evidence, I request that this affidavit, the application for the search warrant, the search warrant, and all other associated court records be sealed until further court ordered.

I declare under penalty of perjury that the foregoing is true and correct.

CHRISTOPHER J. SEDMAK
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me
this 5th day of March, 2008.

HONORABLE CATHY ANN BENCIVENGO
United States Magistrate Judge